

REMARKS

Restriction Requirement

In the Office Action, the examiner issued a restriction requirement and required election of one of the following groups under 35 U.S.C. § 121:

Group I: Claims 23-34 and 38-45, drawn to a method for treating cancer, comprising administering at least one oligonucleotide, and to an antisense oligonucleotide and pharmaceutical composition thereof.

Group II: Claims 23, 28-30, 43 and 44, drawn to a method for treating cancer, comprising administering at least one active derivative of an oligonucleotide, and to an active derivative of an antisense oligonucleotide thereof.

Group III: Claim 40, drawn to a method for treating cancer, comprising administering a TGF- β 2 binding protein.

Group IV: Claim 40, drawn to a method for treating cancer, comprising administering a TGF- β receptor related inhibitor.

Group V: Claim 40, drawn to a method for treating cancer, comprising administering a Smad inhibitor.

Group VI: Claim 40, drawn to a method for treating cancer, comprising administering a TGF- β 2 binding peptide.

Group VII: Claim 40, drawn to a method for treating cancer, comprising administering a TGF- β antibody.

Group VIII: Claims 35-37, drawn to a process of manufacturing an antisense oligonucleotide, comprising the step of adding consecutive nucleosides and linker.

Group IX: Claim 35, drawn to a process of manufacturing an antisense oligonucleotide, comprising the step of cutting said oligonucleotide out of a longer oligonucleotide.

In response, Group I (claims 23-34 and 38-45) drawn to a method for treating cancer, comprising administering at least one oligonucleotide, and to an antisense oligonucleotide and pharmaceutical composition thereof is hereby elected without traverse. Claims 23-34 and 38-45 are encompassed by the elected invention.

Species Election Requirement

In addition to the foregoing, the Office Action indicated that Group I contains claims directed to allegedly different species of gene targets, antisense oligonucleotides, and cancers. In response, if no generic claim within Group I is held allowable, the species carcinoma is provisionally elected without traverse and the species TGF-beta 2 and SEQ ID NO:30 are provisionally elected with traverse. TGF-beta 1, 2 and 3 are members of a uniform peptide family with a highly conserved and similar structure. All of TGF-beta 1, 2 and 3 are protein isoforms encoded by a single precursor molecule. In addition, TGF-beta 1, 2 and 3 fulfill identical physiological functions in controlling cellular proliferation, differentiation and apoptosis. Therefore, TGF-beta 1, 2 and 3 as well as the corresponding oligonucleotide sequences are connected in such a way as to relate to a single inventive concept. Claims 23-33 and 43 are encompassed by the elected species.

Withdrawal of the outstanding restriction requirement and species election and examination on the merits is respectfully requested.

CONCLUSION

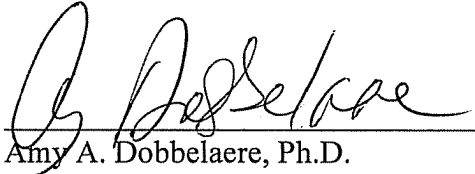
The elections set forth herein are merely to comply with the Restriction Requirement and Species Election and are not to be construed as surrender of any subject matter in the instant application. Applicants hereby reserve the right to pursue the subject matter of the non-elected claims in one or more divisional patent applications. Based on the above election, Applicants request removal of the restriction requirement and species election and substantive examination of all elected claims. Applicants invite the Examiner to call the undersigned if it is believed that the above restriction election is incomplete or improper in any way, or if a telephonic interview will expedite the prosecution of the application to an allowance.

Although no fee is believed due, the Commissioner for Patents and Trademarks is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any

overpayment in any fees paid on the filing or during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,

AKERMAN SENTERFITT

A handwritten signature in black ink, appearing to read "Amy A. Dobbelaere", is written over a horizontal line.

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